



Colin Weir 01/10/2018

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOANNE HART, and SANDRA BUENO, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

vs.

BHH, LLC d/b/a Bell + Howell and VAN HAUSER LLC,

Defendants.

Case No. 1:15-cv-04084-WHP  
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888 Seventh Avenue  
New York, New York

January 10, 2018  
9:31 a.m.

DEPOSITION of COLIN WEIR, taken pursuant  
to Notice, before Toni Freeman Greene, a Notary  
Public of the State of New York.



WEIR

A. Yes.

Q. Other than this case in the past year, have you had any case involving consumer products where you opined it to full compensatory damages?

A. And when we say "the past year," we're talking about the past 12 months, not the past week or two?

Q. Yes. The past 12 months.

A. I believe the answer to that is, yes, but I would need to check my Statement of Qualifications.

Q. You say, "Yes." Do you recall what those cases were?

A. I can think of one case that I believe was within the past 12 months. Although, again, I don't memorize those dates, so I could be mistaken.

But, I believe one case, for example, involved the sale of what are known as homeopathic remedies.

And homeopathy is a practice by which a remedy is made by taking something ridiculously small, like one part per hundred million of not a remedy, but actually something that would cause



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the symptoms that somebody is suffering from, and putting that into a sugar water solution and then either giving the solution or a pill derived therefrom to consumers.

And if you ask a scientist, at least, they'll tell you that that practice is hogwash.

And so, I sponsored testimony suggesting that, if that in were, in fact, the case, a full refund would be the correct remedy in that case.

Q. So, in that case your testimony regarding full compensatory damages was based on the assumption that the products were, in fact, ineffective?

A. I don't know if I would state it quite like that. What I would say is that plaintiffs alleged that the products were ineffective and valueless.

And the first step in any damages calculation is to assume, depends on which way you want to phrase it, either that plaintiffs established their theory of liability or that defendants are held liable for the alleged behavior.



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Q. And the background nature into the nature of the products, what was that research?

A. Again, that involved some of the online research that we've already discussed, as well as a review of, I think, some of the product labels that had been produced in litigation and, perhaps, other document production.

But, we're going back almost a year now, so, I don't remember exactly everything that I've looked at at that preliminary stage.

Q. Did you review any scientific studies with respect to ultrasound pest repellent?

A. By that do you mean their effectiveness?

Q. Yes.

A. Since it's beyond the scope of my retention to evaluate the pest repeller's effectiveness, I did not look at any such studies.

Q. You quantified my question. Did you review any scientific studies with respect to other aspects of the ultrasound pest repellents?

A. Well, it depends on how you take that question.



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Q. Did you do anything independently to research whether the devices were ineffective?

A. That's beyond the scope of my assignment to make that determination, so I did not conduct any further independent research to make a determination as to whether liability should or should not be established in this case.

Q. So, you are not offering an opinion as to whether the devices were, in fact, ineffective, correct?

A. That is correct. I am not offering an opinion one way or the other as to whether the devices are ineffective.

My opinions stem from an assumption that Plaintiffs are able to establish their theory of liability, which is the noted first step in a damages analysis.

But, as to whether they are successful in that endeavor, I have not offered an opinion one way or the other.

Q. So, you haven't reviewed any studies with respect to the effectiveness of ultrasonic pest repellers, correct?

A. Again, because I'm not offering an



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2 opinion as to liability, to the best of my  
3 recollection I have not looked at studies as to  
4 the effectiveness of pest repellers.

5 Q. And other than the rebuttal report of  
6 Mr. Boedeker, which you've said you reviewed,  
7 have you reviewed any of the expert reports in  
8 this case?

9 A. Again, because establishing liability  
10 was beyond the scope of my assignment, I did not  
11 look at the other experts who are, I guess,  
12 involved in the establishment of liability one  
13 way or the other.

14 Q. And you didn't do any other research  
15 with respect to the general effectiveness of the  
16 ultrasonic pest repellers?

17 A. Again, because it's beyond the scope  
18 of my assignment to determine liability, I did  
19 not conduct any additional research to determine  
20 whether liability should or should not be  
21 established.

22 Q. Did you do any independent research  
23 with respect to whether the pest repellers were  
24 worthless?

25 A. I did do some research in that regard.

